

MINUTES  
PHYSICIANS LICENSING BOARD  
JANUARY 10, 2007 8:30 A.M.  
ROOM 474 HEBER M WELLS BUILDING  
160 EAST 300 SOUTH  
SALT LAKE CITY UTAH

CONVENED: 8:42 a.m.

CONDUCTING: George Pingree, MD

ADJOURNED: 1:10 p.m.

MEMBERS PRESENT: George Pingree, MD  
James Fowler, MD  
Richard Sperry, MD  
Lori Buhler, Public Member  
Michael Giovanniello, MD  
John Bennion, Public Member  
Curtis Canning, MD  
Mason Stout, MD  
Stephen Lamb, MD  
Sharon Weinstein, MD

MEMBERS EXCUSED: Marc Babitz, MD

DIVISION STAFF: Diana Baker, Bureau Manager  
Shirlene Kimball, Secretary

**TOPIC OF DISCUSSION:**

**DECISIONS/RECOMMENDATIONS:**

DECEMBER 13, 2006 MINUTES:

Approved with corrections.

AGENDA REVIEW – MS. BAKER:

Ms. Baker indicated Dr. Naylor has submitted a new practice plan. She indicated that the former director of the facility contacted her with concerns and Dr. Naylor has been invited to meet with the Board to address these concerns.

Mr. Stirba requested a meeting with the Board on behalf of his client, Dr. Kirk Moore. Dr. Moore would like to discuss a proposed business model where he would use ancillary personnel, such as a chiropractor, to take a detailed medical history, provide physical exam findings and order lab work including blood and/or saliva testing as it relates

to bio-identical hormone replacement therapy. Ms. Baker indicated Dr. Moore and Mr. Stirba will reference the consent agreement with PCM Venture, which allows for internet prescribing under guidelines established in the consent order.

Ms. Baker indicated more and more business are approaching the Division with alternative ways to practice medicine and the Division needs direction from the Board whether the requests coming in are safe for the public. Dr. Lamb stated he feels like the Board is unintentionally opening the door by allowing for internet prescribing and considering requests such as the Planned Parenthood request to provide contraceptives over the internet. Dr. Weinstein stated the door was opened when the internet prescribing was approved. Dr. Giovanniello stated we need to review these requests and make recommendations or the Legislature will make the decisions and the Board will have to accept those decisions.

Ms. Baker indicated that Layfe Anthony has submitted a practice plan and would like to open a practice in Heber City.

ADJOURNED TO GROUPS AT 9:10  
A.M.

GROUP I  
MINUTETAKER: DIANA BAKER

Members present: Dr. Sperry, Dr. Canning, Ms. Buhler, Dr. Weinstein and Dr. Stout.

PHILIP WASHBURN, MD  
INTERVIEW:

Dr. Washburn stated that he is currently semi-retired but is working three 6 hour days a week in private practice as well as doing hospital admission at the Payson hospital. Most of his patients are adults, but he does see some

adolescents. The Board had some questions about the sequential numbering of his required triplicate prescriptions that are submitted for evaluation. He stated that his business manager has been numbering the prescriptions as they are recorded in a log book. Dr. Washburn does not have any oversight of this activity and trusts his business manager to do this. There were also names on his database that did not occur on the prescriptions submitted. Dr. Washburn felt that these were written for patients that had been dismissed from the hospital and he only uses the hospital prescription pads for this purpose. He was instructed to begin carrying the required sequentially numbered, triplicate pads with him or have them secured in the pharmacy for hospital admissions. Dr. Washburn was reminded that his inappropriate prescribing of controlled substances is what caused his license to be revoked in the past and he was strongly encouraged to take over the control of this practice to ensure that all is in compliance with his Order as well as with all the prescribing laws and rules. He was instructed to bring the log book and copies next month so the Board can review his process for accuracy.

Dr. Washburn also submitted a registration for the PACE prescribing course in San Diego. He will be attending that meeting at the end of January. Dr. Washburn is not in compliance with his Order.

DAVID AUNE, MD  
INTERVIEW:

Dr. Aune presented all of his required reports with the exception of the Aftercare report. He stated that A/D Psychotherapies was supposed to fax it in today. He asked if his urine screening could be adjusted since it is

getting expensive to continue with so frequent monitoring. Ms. Baker stated she would review the schedule. Dr. Aune also had questions about writing prescriptions for Soma, Tramadol and Lomotil on triplicate prescriptions was required. Dr. Weinstein suggested that all of these drugs should be monitored. Dr. Aune stated that work is going well and his recovery is good. He is in compliance with his Order.

RANDAL ELLSWORTH, MD  
INTERVIEW:

Dr. Ellsworth is out of state and will be rescheduled for next month.

GROUP II  
SECRETARY: SHIRLENE KIMBALL

Members present: Dr. Giovanniello, Dr. Fowler, Dr. Bennion, Dr. Pingree and Dr. Lamb

JAMES HOPKINS, MD  
INTERVIEW:

Dr. Hopkins was rescheduled for next month.

JASON CHURCH, MD  
TELEPHONE INTERVIEW:

Dr. Church was interviewed by telephone. He indicated he will be finishing his residency in Ohio the end of January and will be moving back to Utah in February. He stated he will begin work the first of March at Exodus Health Care, private physicians group near Pioneer Valley Hospital. Board members reminded Dr. Church he will need to submit a practice plan to the Board before starting his new position. Dr. Church indicated Ohio will also monitor his probation. Dr. Church is in compliance with the terms and conditions of his Order.

SIDNEY JOHNSON, MD  
TELEPHONE INTERVIEW:

Dr. Giovanniello conducted the interview by telephone. Dr. Johnson stated he is still practicing in Hawaii. He indicated he has applied for licensure in Massachusetts and Colorado. Dr. Johnson will only need to be interviewed by the Board on a yearly basis unless he fails to submit

the required reports. Dr. Johnson is in compliance with the terms and conditions of his Order.

RECONVENED TO FULL BOARD:

REPORTS FROM GROUP  
INTERVIEWS:

Dr. Washburn is out of compliance with the terms and conditions of his Order. A review of the controlled substance data base and a review of the prescriptions he submitted reveal a number of discrepancies. He has been requested to meet with the Board next month to see if he has addressed the Boards concerns.

Dr. Ellsworth: Dr. Ellsworth left a message with the division indicating he would be in Hawaii. His message indicated he felt he is in compliance with his Order because he called to report he would be out of state. However, Board members indicated Dr. Ellsworth still needed to call CVI daily and appear for random urine screens if his number was selected. Board members requested that a letter of non-compliance be sent for missing two urine screens and not calling CVI while he was out of state.

PAUL BENSON, MD  
NEW ORDER:

Dr. Benson did not appear for his scheduled interview. He will be invited to the February 14, 2007 meeting.

ALLEN NAYLOR, MD  
INTERVIEW:

Dr. Lamb conducted the interview. Dr. Naylor indicated he has an employment opportunity working with ZLB Plasma Center as medical director. Ms. Baker indicated she had received a phone call from the former medical director who had expressed concerns with Dr. Naylor accepting the position. Dr. Naylor stated the position will be as an administrator. The clients are plasma donors and the majority of donors will

be male. He stated the center has a policy that all providers have a chaperon when the client is the opposite sex. Dr. Naylor indicated he did not meet the previous director, but understood he did not leave on good terms with the facility. Ms. Baker provided the Board with comments received from the former director, Dr. Martin MacNeil. Dr. MacNeil indicated he was not allowed to question Dr. Naylor's history. Dr. MacNeil also expressed concern that the physical exam requires the examiner ask questions regarding tattoos and body piercings. He stated that often the patient volunteers to show the tattoos to the physician. Dr. MacNeil also indicated he received sexual propositions from some of the clients. Dr. Naylor indicated the examiner is provided with a body chart to record the tattoos and piercings, but indicated he doesn't ask to see them. Dr. MacNeil has also indicated there were no chaperons. Dr. Naylor stated there are chaperons and he/she checks a box on the form if they were present during the examination. Dr. Naylor stated he feels his most vulnerable position will be with the staff.

Dr. Naylor indicated there will be a problem with supervision because there will be no physician on site. The corporation medical director is located in Florida, and the district supervisor is in Colorado. He indicated there is an RN at the facility, along with the center director, receptionists and phlebotomists. Dr. Naylor indicated he could use the center director or assistant director as his supervisor if the Board would accept a non-physician supervisor. Dr. Canning indicated he is concerned that Dr. Naylor has

already accepted the position. He also indicated there is a risk to Dr. Naylor in this situation.

Dr. Giovanniello made a Motion to allow Dr. Naylor to proceed with his job for one month as long as a chaperon is available with every client and there is documentation that the chaperon was present. Dr. Naylor must provide the name of the chaperon and supervisor and both individuals must communicate they are willing to act as chaperon and supervisor. The supervisor must also meet with the Board next month. Dr. Weinstein seconded the Motion. A friendly amendment was made to have the supervisor monitor Dr. Naylor's interaction with staff as well as clients and that the supervisor report include interactions with staff. All Board members in favor of the Motion and the friendly amendment.

TERRELL SELLERS, MD  
INTERVIEW:

Dr. Sellers indicated he is managing his headaches fairly well. He stated he attends aftercare at A & D Psychotherapy twice a week, attends AA meetings once a week, and PIR meetings once a week. He is missing his aftercare reports from November and December and he indicated he will submit these reports within the next several days. He stated he is not currently practicing medicine. Dr. Sellers questioned whether or not the Board would consider amending the Order and not require an out of state inpatient treatment program, but to accept an outpatient program located in Utah. Dr. Giovanniello indicated that if a substance abuse evaluation is completed the Board would review the recommendations. Dr. Sellers indicated he has contacted Beth Howell for an evaluation. Dr. Canning indicated the

evaluation would be accepted from Dr. Howell or her designee, or from an independent evaluator who has not been involved in his current treatment. Dr. Sellers will be scheduled to meet with the Board in three months.

PETER STIRBA, ATTORNEY:

Mr. Stirba and Dr. Kirk Moore met with the Board to discuss Dr. Moore's proposed business mode for hormone replacement therapy. Investigators Irene Gayheart and Larry Gooch, and Bureau Manager Dan Jones joined the meeting at 11:45 a.m.

Dr. Moore stated he has been doing hormone replacement for 3 ½ years. He indicated his practice is busy and he would like to have a chiropractor or other ancillary personnel gather a short history and refer the patient for comprehensive lab work. Dr. Moore indicated he would be responsible for all patients, however, he would not personally see the patient, but would review his/her charts, lab tests and evaluations. Board members indicated that a physician can use mid level providers; however, this would be outside the scope of practice of the chiropractor or naturopath. Mr. Stirba indicated Dr. Moore is willing to work with the Division to put together a protocol that is clear and appropriate. Board members stated there is concern that a chiropractor will be seeing the patient and ordering medical tests and therefore will be practicing outside his/her scope of practice. Dr. Moore indicated that chiropractors can order lab tests and this will not change what the chiropractor is allowed to do. The physician will review every history and physical and all lab tests. Dr. Sperry stated he is concerned that the physician is relying on a history and



LAYFE ANTHONY, MD  
INTERVIEW:

physical done by someone else, never sees the patient and then writes a prescription. Dr. Weinstein stated there are already physician extenders and he is proposing to use an individual who would be practicing outside his/her scope of the practice.

Dr. Anthony submitted a practice plan proposal. He indicated he would like to open a small clinic in Heber. He stated Linda Hensley, the APRN he is currently practicing with, would be available for supervision at least part time. He indicated he currently sees patients when she is out of the office and the only change in the practice plan is the location of practice. Dr. Sperry indicated he felt that the supervisor had to be on the premises when Dr. Anthony was practicing. Ms. Baker reviewed the paperwork and it does not require a supervisor to be available on-site. Board members expressed concern that he will be practicing in a rural area by himself without supervision. Dr. Anthony indicated that Dr. Van Komen and Dr. Civish would continue as his supervisors and would be accessible by phone. Board members indicated there were deficient areas identified by CPEP and there is concern that he would be practicing in an unsupervised setting. Dr. Anthony stated he knows it is not the best situation; however he has been unable to find other work. Dr. Lamb stated he would like to have more information before approving the practice plan. Dr. Giovanniello indicated he would like to talk with the supervisors, make sure what their role will be, will they continue to review charts and whether or not they are comfortable with this setting. Dr. Weinstein stated the proposed practice plan is no different than the current

practice the only concern is the accessibility of the supervisor. Dr. Weinstein made a Motion accept the practice plan as an extension of what Dr. Anthony is current doing once letters are received from the supervising physicians indicating they are willing to continue to provide chart review. Documentation from Ms. Hensley regarding her involvement must also be received. Dr. Bennion seconded the Motion. Dr. Lamb opposed. All other Board members in favor. Dr. Anthony will be invited to meet next month to see how things are progressing.

REVIEW LETTER TO PHYSICIANS  
REGARDING OPIOID PRESCRIBING:

Board members reviewed the letter. Dr. Weinstein indicated she will add the educational site web addresses. She indicated that the letter should also be reviewed by the Osteopathic, Pharmacy and Nursing Boards. The FSMB Model Policy for the Use of Controlled Substances for the Treatment of Pain will be attached.

SELECTION OF A BOARD MEMBER  
TO ATTEND FSMB'S ANNUAL  
MEETING:

Ms. Baker indicated the Federation of State Medical Boards Annual meeting will be held May 3-5, 2007. Dr. Weinstein, Dr. Sperry, Dr. Fowler, Dr. Lamb and Dr. Pingree indicated they would be willing to attend and will check their schedules. Ms. Baker indicated two Board members can attend.

REVIEW PROPOSED ADDITION TO  
THE PHARMACIST VACCINE  
PROTOCOL:

Board members reviewed the request from the Pharmacy Board to add to the Vaccine protocol Herpes Zoster vaccine and Human Papillomavirus vaccine. The vaccine protocol allows a pharmacist to administer approved medications for a fee as long training has been completed. A collaborative agreement signed by a physician must be in place and the document is kept on site. Dr. Sperry made a Motion to

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approve the addition of the Herpes Zoster vaccine and the Human Papillomavirus vaccine. Dr. Weinstein seconded the Motion. All Board members in favor.

APPLICATION APPROVED BY THE  
DIVISION:

Silvia Skripenova, MD  
Amber Bledsoe, MD  
Nasfat Shehadeh, MD  
Patience Owan, MD  
Margi Bhatt, MD  
Samir Wadhvania, MD  
Clement Cheng, MD  
Joseph Bledsoe, MD  
Jonathan Teu, MD  
Robert Cionni, MD  
Douglas Kondo, MD  
Andrew Fedoravicius, MD  
John Sanders, MD  
Daniel Priestly, MD  
Emily Grossell, MD  
Massimo Testa, MD  
Benjamin Hansen, MD  
Brett Richards, MD

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GEORGE PINGREE, MD CHAIR

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DATE

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DIANA BAKER, BUREAU MANAGER

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DATE